



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2015-0262]**

**Hours of Service of Drivers; National Star Route Mail Contractors Association; Application for Exemption**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of application for exemption; request for comments.

**SUMMARY:** FMCSA announces that it has received an application from the National Star Route Mail Contractors Association (NSRMCA) on behalf of its member motor carriers that transport mail under contract for the United States Postal Service (USPS). NSRMCA requests that its contract carriers be exempt from the “14-hour rule” of the Agency’s hours-of-service regulations found in section 395.3(a)(2). NSRMCA specifically requests that a U.S. mail-carrying driver may elect to drive a U.S. mail-carrying commercial motor vehicle (CMV) no more than 10 hours following 8 consecutive hours off duty; and not drive after having been on duty 15 hours following 8 consecutive hours off duty. NSRMCA believes the exemption would positively impact safety, while reducing operating costs for USPS and contractors that provide Highway Contract Route services to the USPS. FMCSA requests public comment on the NSRMCA application for exemption.

**DATES:** Comments must be received on or before **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA-2015-0262 by any of the following methods:

- Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the online instructions for submitting comments.
- Fax: 1-202-493-2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number.

For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to [www.regulations.gov](http://www.regulations.gov), including any personal information provided. Please also see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to [www.regulations.gov](http://www.regulations.gov), and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

Public participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the “help” section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4325. E-mail: [MCPSD@dot.gov](mailto:MCPSD@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). Before doing so, the Agency must provide an opportunity for public comment. The Agency is required to publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)), providing the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted, and to comment on the request. FMCSA must review the safety analyses and public comments submitted and determine whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)) and state the reasons for denying or granting the

application. If the exemption is granted, the notice must include the name of the person or entity, or class of persons, receiving the exemption, and the regulation from which the exemption is granted. The notice must also specify the effective period of the exemption and state the terms and conditions of the exemption, if any. The exemption may be renewed (49 CFR 381.300(b)).

### **Request for Exemption**

NSRMCA is a national trade association representing contractors transporting mail for the United States Postal Service (USPS). The NSRMCA represents contractors in all 50 States as well as U.S. territories. The NSRMCA's interest is in the safe and efficient delivery of U.S. mail. NSRMCA members employ drivers who are regulated by the FMCSA hours-of-service (HOS) regulations, and they submitted their request for exemption on behalf of all motor carriers that meet the terms specified within the request.

NSRMCA is seeking an exemption from the "14-hour rule" in 49 CFR 395.3(a)(2), which prohibits a property-carrying CMV driver from driving a CMV after the 14<sup>th</sup> hour after coming on duty following 10 consecutive hours off duty. Under NSRMCA's proposal, they request that a U.S. mail-carrying driver may elect to drive a U.S. mail-carrying CMV no more than 10 hours following 8 consecutive hours off duty; and not drive after having been on duty 15 hours following 8 consecutive hours off duty.

Many of NSRMCA's member carriers and drivers work in "split-shift" operations. Their Highway Contract Routes involve the distribution of mail from a central processing facility to U.S. Post Offices in the morning. In the afternoon, U.S. mail collected by these same U.S. Post Offices is picked up and delivered to a central USPS processing facility. A typical day for a NSRMCA driver involved in the

distribution of mail from a central processing facility starts early morning and ends 4 hours later at the last U.S. Post Office on the route. The return route typically starts 9 hours later at this same U.S. Post Office, collecting received mail at each U.S. Post Office on the route and delivering to the USPS central processing facility 4 hours later. A typical driver will have worked 8 hours, with a 9-hour break during the day between outbound and inbound routes, and a 7-hour break overnight. Neither of these breaks meets the required 10 consecutive hours break (i.e., off-duty or sleeper-berth time) as required in section 393.3(a)(1) in the FMCSRs. Their drivers typically spend a great part of their 14-hour “driving window” not driving; however, their schedules as detailed above necessitate NSRMCA’s request for this exemption.

The NSRMCA conducted a survey of its membership to determine who would be interested in using the proposed exemption. Twenty-two member motor carriers – who employ 1,834 drivers – replied that they would be interested in utilizing the proposed exemption. These motor carriers operate a total of 1,175 vehicles, 507 of which are used in “split-shift” operations.

NSRMCA believes the exemption would achieve a level of safety equivalent to, or greater than, the level of safety obtained under the current “14-hour rule”, which prohibits operators of property-carrying CMVs from driving after the 14<sup>th</sup> hour of coming on duty. They believe that this exemption – if granted – would positively impact safety, while reducing operating costs for the USPS and contractors that provide Highway Contract Route services to the USPS. To qualify for this exemption, NSRMCA proposes the following four conditions: (1) a driver must have a rest opportunity; (2) motor carriers operating under this exemption must have a “Satisfactory” safety rating, or be unrated; (3) motor carriers operating under this

exemption must have Safety Management System (SMS) scores below FMCSA's intervention thresholds; and ( 4) motor carrier representatives must participate in annual education, focusing on safety rating and regulatory compliance within the mail contracting environment.

According to NSRMCA, operating under the proposed exemption would be safer than operating under the current FMCSRs, as drivers will spend less total time performing all tasks related to their employment. Furthermore, drivers and vehicles will travel less distance performing the same volume of work, thereby improving safety performance. A copy of the application for exemption is available for review in the docket for this notice.

### **Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment on NRSMCA's application for an exemption from the "14-hour rule" requirement of 49 CFR 395.3(a)(2). The Agency will consider all comments received by close of business on **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]**. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice.

Issued on: August 13, 2015.

Larry W. Minor  
Associate Administrator for Policy

[FR Doc. 2015-20568 Filed: 8/19/2015 08:45 am; Publication Date: 8/20/2015]